

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
BARBARA SCHULTZ,

Plaintiff,

-against-

MARTIN CHEN,

Defendant.  
-----X

**JURY TRIAL  
DEMANDED**

**COMPLAINT**

Civil Action #

Plaintiff BARBARA SCHULTZ, by her attorneys, BARRY McTIERNAN & MOORE LLC, alleges upon information and belief,

**THE PARTIES**

1. Plaintiff Barbara Schultz is an individual with a residence in the State of Connecticut, County of Fairfield and City of Stamford.

2. Defendant Martin Chen is an individual with a residence in the State of New York, County of New York and City of New York.

**JURISDICTION and VENUE**

3. This is a lawsuit to recover compensatory damages in an amount greater than \$75,000 for personal injuries suffered as the result of a motor vehicle accident that occurred in the State of New York, County of New York and City of New York.

4. Pursuant to 28 U.S.C. 1332(c)(1), plaintiff Barbara Schultz is a citizen of the State of Connecticut.

5. Pursuant to 28 U.S.C. 1332(c)(1), defendant Martin Chen is a citizen of the State of New York.

6. Jurisdiction is proper pursuant to 28 U.S.C. § 1332.

7. Venue is proper in the Southern District of New York as the residence of defendant Martin Chen is located within that district.

**AS AND FOR A CAUSE OF ACTION**

8. On December 4, 2016 and at all times relevant to this action, defendant Martin Chen owned a motor vehicle bearing license plate number GBV6989, New York.

9. On December 4, 2016 and at all times relevant to this action, defendant Martin Chen operated said motor vehicle bearing license plate number GBV6989, New York.

10. On December 4, 2016 and at all times relevant to this action, defendant Martin Chen operated said motor vehicle bearing license plate number GBV6989, New York with the permission and consent of its owner.

11. On December 4, 2016 and at all times relevant to this action, defendant Martin Chen maintained said motor vehicle.

12. On December 4, 2016, Central Park West was a public thoroughfare located in the State, County and City of New York.

13. On December 4, 2016, defendant Martin Chen operated and controlled said motor vehicle bearing license plate number GBV6989, New York on Central Park West between West 94<sup>th</sup> Street and West 95<sup>th</sup> Street.

14. On December 4, 2016, plaintiff Barbara Schultz was a passenger in a motor vehicle stopped in front of 350 Central Park West between West 94<sup>th</sup> Street and West 95<sup>th</sup> Street.

15. On December 4, 2016, the above-mentioned motor vehicle operated and controlled by defendant Martin Chen on Central Park West forcibly and negligently struck the motor vehicle in which plaintiff Barbara Schultz was a passenger in the rear thereby causing injury to said plaintiff.

16. The above stated occurrence and the results thereof were in no way due to any negligence on the part of the plaintiff contributing thereto, but were caused by the joint, several

and/or concurrent negligence of the defendant and/or said defendant's agents, servants, employees and/or licensees in the ownership, operation, management, maintenance and control of said motor vehicle; in operating same without due regard to the rights and safety of the plaintiff; in operating said motor vehicle in a manner which unreasonably endangered the plaintiff; in failing to properly steer, guide, manage and control said vehicle; in operating same at a rate of speed greater than was reasonable and proper at the time and place of the occurrence; in failing to apply the brakes or slow down or stop in such a manner as would have prevented the occurrence; in failing to have made adequate and timely observation of and response to conditions; in failing to observe signs and signals prevailing at the time and place of the occurrence; in failing to keep a proper look-out when controlling said vehicle; in failing to properly maintain said vehicle according to law; in failing to give adequate and timely signal, notice or warning; in operating said motor vehicle in violation of the traffic rules, regulations, statutes and ordinances in such cases made and provided; and in being otherwise careless, reckless and negligent in the ownership, maintenance, operation and control of said motor vehicle.

17. The aforesaid occurrence and its results thereof were in no way due to any negligence or culpable conduct on the part of the plaintiff.

18. Plaintiff Barbara Schultz has sustained a serious injury as defined in the Insurance Law of the State of New York, § 5102(d) and said loss is greater than the economic loss as defined in the Insurance Law of the State of New York, § 5102(a).

19. Because of the above-mentioned occurrence, plaintiff Barbara Schultz was caused to sustain serious personal injuries and to have suffered shock, pain and mental anguish and, upon information and belief, all of plaintiff's injuries and their effects will be permanent; and that as a result of said injuries plaintiff has been and will continue to be obliged to incur expenses for medical care and attention; and plaintiff has been and will continue to be rendered unable to perform plaintiff's normal

activities and has sustained a resultant loss therefrom.

20. By reason of the foregoing, plaintiff Barbara Schultz has sustained damages against defendant Martin Chen in the amount of five hundred thousand dollars (\$500,000).


WHEREFORE plaintiff Barbara Schultz prays for the following relief:

- (a) demands judgment of five hundred thousand dollars (\$500,000) against defendant Martin Chen;
- (b) demands costs, disbursements, attorneys' fees and interest associated with this action;
- (c) demands such other and further relief as to this Court may seem just and proper.

Dated: New York, New York  
November 15, 2017

Yours, etc.

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By   
DAVID H. SCHULTZ (DS 1365)